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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/642,777	08/18/2003	Joseph Brown	BROWN-001XX	3681
7590 04/20/2005			EXAMINER	
Bourque & Associates, P.A. Suite 301 835 Hanover Street Manchester, NH 03104			NGUYEN, TUAN N	
			ART UNIT	PAPER NUMBER
			3751	
DATE MAILED: 04/20/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/642,777

Applicant(s)

BROWN, JOSEPH

Examiner

Tuan N. Nguyen

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 5,13-16,21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5,13-16,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments filed 1/13/05 have been fully considered but they are not persuasive. With respect to the applicant's argument regarding the Gotter reference on pages 7-10, the examiner agrees with the applicant that the embodiments shown in Figs. 5 and 6 of Gotter are structurally different. However, they are equivalent means to perform the function of securing a sink within an opening in a countertop as claimed. Gotter clearly discloses the interchangeability of the portion, which the applicant referred to as "flexible sink engagement section 44" on line 12 of page 6. The prior art Fig. 1 of the instant application discloses all of the structure limitations as claimed, wherein the "flexible sink engagement section" (20) is similar to member (62) of Fig. 5 of Gotter. The applicant's mere modification of the "flexible sink engagement section 44" as shown in Fig. 3 of the instant application is clearly disclosed by Gotter as evidenced in Fig. 6 of Gotter.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 5, 13-16, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art Fig. 1 in view of US Patent 5,664,265 (hereinafter Gotter).

The prior art Fig. 1 of the instant application discloses a mount a body portion, a channel engagement, and a faster as claimed. The prior art Fig. 1 differs from the instant invention in the flexible sink engagement section. However, the flexible sink engagement section as claimed is disclosed by the Gotter reference discloses a mount for securing a sink within an opening (42) in a countertop having at least one side, the mount comprising a body portion (100) adapted be secured to the sink; and a flexible sink engagement section (102). The flexible sink engagement section including a first section having a first end disposed proximate a first end of the body portion; and a second portion disposed proximate a second end of the first section, the second section having a tip (64') adapted engage a substantially vertical face (46) of the opening in the countertop when the sink is disposed within the opening the countertop. The body portion further includes a channel engagement section (about 34, 36) dispose proximate a second end of the body portion. The channel engagement section includes a substantially horizontal portion secured to the second end of the body portion and a substantially vertical portion disposed proximate an end the substantially horizontal portion, wherein the substantially horizontal and vertical portions are sized and shaped to engage an outside surface of a channel (26) on the sink. The Gotter disclose two different flexible sink engagement sections (Figs. 5 and 6) that are an equivalent alternative for securing a sink within an opening in a countertop. Gotter's Fig. 5 teaches the flexible sink engagement section (62, 64) clamping the undersurface of the countertop while Gotter's Fig. 6 teaches the flexible sink engagement section (64', 102, 104) clamping the vertical surface of the opening in the countertop. Therefore, it would

Art Unit: 3751

have been obvious to one of ordinary skill in the art at the time the invention was made to interchange the flexible sink engagement section of the prior art Fig. 1 with the flexible sink engagement section as, for example, taught by Gotter, where in so doing would involve mere substitution of one functional equivalent sink mount for another and the selection of any of these known equivalents to mount a sink within an opening in a countertop would perform equally well on the Gotter device.

The Gotter flexible sink engagement section (64', 102, 104) obviously has an angle A1 and an angle A2 similar to that of the applicant but is silent as to the specific of the angle A1 being between about 30 and about 60 degrees in an unbiased condition and the angle A2 being between about 15 and about 30 degrees in an unbiased condition. It would have been obvious to one having ordinary skill in the art at the time the invention was made to obtain a workable angle range as claimed since it has been held that where the general conditions of a claims are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

### ***Conclusion***

3. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within


Art Unit: 3751

TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuan N. Nguyen whose telephone number is 571-272-4892. The examiner can normally be reached on Monday-Friday (10:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine R. Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Tuan Nguyen  
Primary Examiner  
Art Unit 3751

4/15/05

TN